



**US Army Corps
of Engineers®**

Nashville District

Public Notice

Public Notice No. **04-34**

Date: May 21, 2004

Application No. **200201386**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
and
STATE OF ALABAMA

SUBJECT: Proposed Channel Relocation and Wetland Fill for Residential Development on Unnamed Tributary Mile 0.2, to Peck Hollow Branch, a tributary to Tennessee River Mile 312.0L, Morgan County, Alabama

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army Permit pursuant to **Section 404 of the Clean Water Act (CWA)** for the discharge of fill material into waters of the United States and **Section 26a Approval from Tennessee Valley Authority (TVA)**. Before a permit can be issued, certification must be provided by the state of Alabama, pursuant to **Section 401(1)(1) of the CWA**, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Mr. Ronnie Butler
Southern Designs, LLC
147 Deerfield Drive
Priceville, Alabama 35603

LOCATION: Unnamed Tributary Mile 0.2 and Adjacent Wetland, a tributary to Peck Hollow Branch, a tributary to Tennessee River Mile 312.0L, associated with the new Churchill Downs Subdivision, in Priceville, Morgan County, Alabama (Decatur Quad; lat 34-30-57.3480, lon 86-52-42.1680)

DESCRIPTION: The proposed work consists of channel relocation of 1,800 linear feet of the intermittent unnamed tributary and wetland fill of 2.71 acres for the new Churchill Downs Subdivision. The existing channel is an intermittent stream and has been previously impacted in the past from ditching and removal of vegetation. The new, open channel would be constructed approximately 2,320 linear feet long, and designed to mimic the existing channel's conditions with a 4' minimum low flow channel constructed within a 6' minimum overflow channel. The new channel was designed with Rosgen's Stream Classification Method. A buffer zone would be created along both banks of the

new channel and be planted with native mast bearing trees and shrubs. See the attached Mitigation Plan for a detailed description of the stream mitigation. In addition to the channel relocation, 2.71 acres of shrub/scrub wetland, adjacent to the unnamed tributary, is proposed to be filled for the development. The applicant proposes onsite mitigation for the wetland impacts by the creation and restoration of 4.0 acres of wetlands and restoring 0.45 acres of buffer zone around the wetlands to be planted with mast bearing trees and shrubs. The 4.0 acres of wetland mitigation site would involve creation of forested and shrub/scrub wetlands with small habitat pools. Therefore, the applicant proposes 4.45 acres of onsite mitigation. To order to obtain a 2:1 mitigation ratio for the 2.71 impact acres, the applicant also proposes to purchase 0.97 credits from the Hartselle Wetland Mitigation Bank. See the attached Mitigation Plan for a detailed description of the wetland mitigation. The applicant has designed the project to avoid and preserve 2.61 acres of existing wetlands.

Two road crossings of the unnamed tributary are proposed and have previously been permitted by Nationwide Permit #14, on June 5, 2003, for the new subdivision. These crossings involve a 40' and a 50' long pipe culvert.

The purpose of the proposed work is for creation of additional lots and road construction associated with residential development of the new Churchill Downs Subdivision.

Plans of the proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental

effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An Environmental Assessment will be prepared by this office prior to a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Other federal, state, and/or local approvals required for the proposed work are as follows:

Water Quality Certification from the state of Alabama is required for the proposed work in accordance with Section 401(a)(1) of the Clean Water Act.

Tennessee Valley Authority (TVA) approval is required under Section 26a of the TVA Act for the proposed work. TVA issued the proposed work on May 19, 2004.

The Town of Priceville, Drainage Division, has indicated that the design storm water run-off rate from the proposed subdivision is actually reduced from the pre-development rate. Therefore, the town certified that there would be no net rise in the water level in the stream passing thru the subdivision, or in the creek downstream, due to the construction of this subdivision.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before June 21, 2004, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Amy Robinson, at the above address, telephone (615) 369-7509. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Ms. Debbie Rutherford, Tennessee Valley Authority, Wheeler Land Management Office, P.O. Box 1010, Muscle Shoals, Alabama 35662-1010.

PROPOSED MITIGATION PLAN
FOR CHURCHILL DOWNS

Proposed Stream Mitigation Plan:

The existing intermittent stream is approximately 2 to 4 feet in width, and exhibits near vertical banks that are 2 to 4 feet in height. The streambed substrate is comprised mostly of silty clays, with small areas of assorted gravel. The watershed associated with the subject intermittent channel is approximately 145 acres. Pasture extends up to the stream on both sides, with no woody or forested vegetation for buffers. It is anticipated that prior farming activities included grazing cattle up to and through the stream.

Construction of the residential access and associated adjacent lots would require relocating the channel and associated wetlands some 50 to 75 feet east of the existing channel. A total of 1,800 linear feet of the small, intermittent channel would be filled with a total of 2,320 linear feet of new channel constructed.

The proposed relocated stream would include a dimension, pattern, and profile of a B/C Rosgen stream type in the upper 1100 linear feet. As the valley slope flattens the relocated stream would also flatten into an E channel with adjacent wetlands in the lower 1200 linear feet of relocated stream. The relocated stream would be constructed through excavation of the neighboring valley. The new channel would be sloped with approximate 3:1 slopes and would have a max depth of approximately 0.5 feet.

The stream channel would include the installation of woody material along meander bends to facilitate bank stabilization and to promote wildlife habitat. Additionally, rock would be added to the relocated stream in strategic locations to promote riffle habitat and to assist in preventing headcutting. Up and downstream from the riffle areas, the relocated stream would include pools spaced approximately 30 feet apart. Each pool would have a max depth of approximately 1.96 feet.

The relocated stream would be lined with coir type biodegradable fabric to facilitate erosion control during the stabilization period. Additionally, willow stakes would be added on meander bends and the channel would be lined on both sides with a minimum of 25-feet of vegetated buffer. Within this buffer, native mast bearing trees and fruit bearing shrubs would be installed to provide vegetative coverage at a density equal to about one stem per 20-foot radius. This installation would occur during the first winter after construction.

Long-term monitoring over a three-year period would be accomplished to demonstrate that the stream is stable. This monitoring would include photographs from a fixed monitoring stations. Each station would be marked with bank pins where bank erosion would be measured. Additionally, an as-built survey of the stream profile and two representative riffle cross sections and two representative pool cross sections would be collected. This as-built survey and measurements at the fixed location bank pins would be used as a means of long-term comparison to demonstrate stream stability.

PROPOSED MITIGATION PLAN
FOR CHURCHILL DOWNS SUBDIVISION

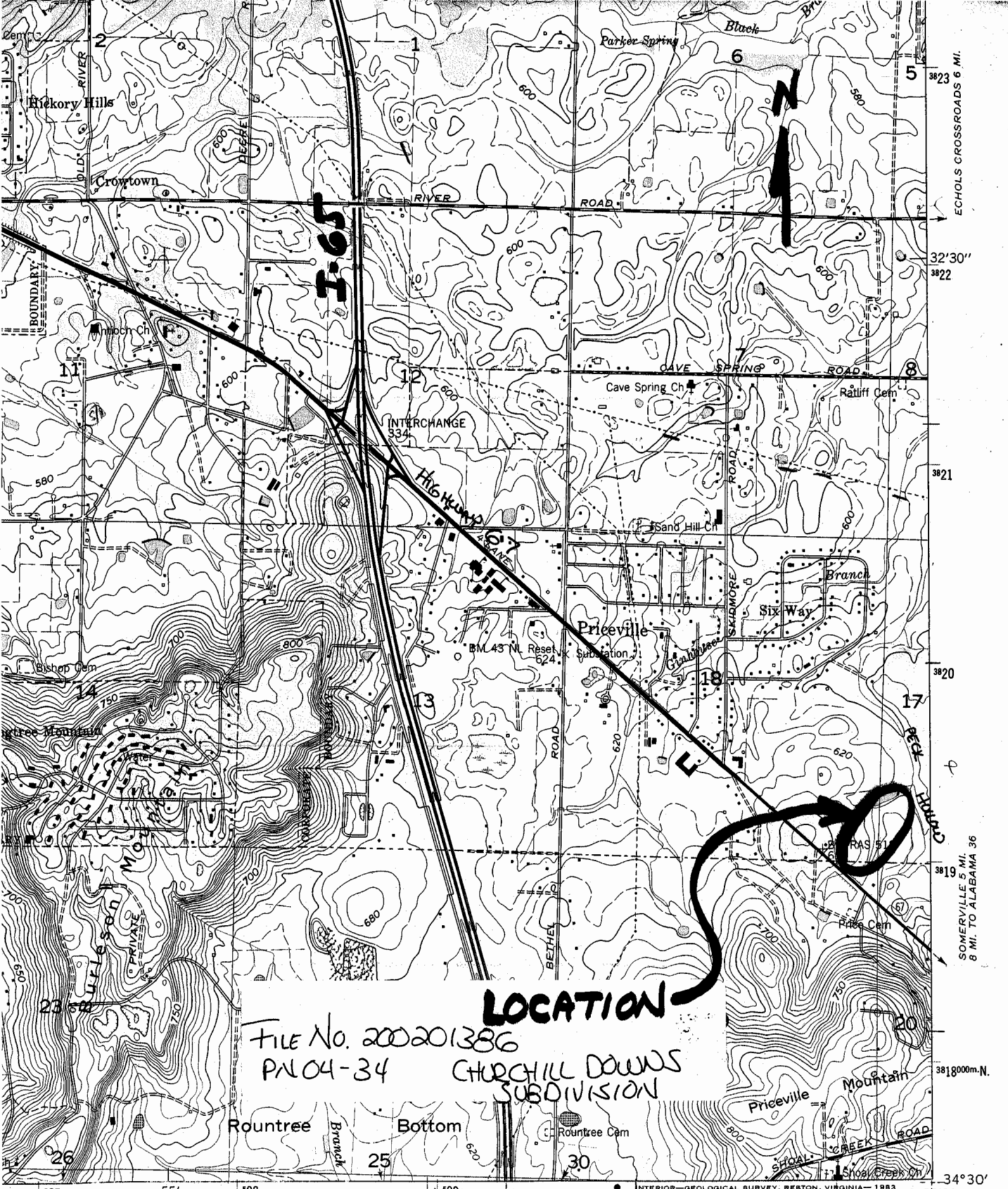
Proposed Wetland Mitigation Plan:

The total proposed wetland impacts is 2.71 acres of shrub/scrub wetlands located adjacent to the intermittent, unnamed tributary. The wetlands have been disturbed in the past from agricultural uses, such as cattle grazing and mowing. A total of 4.45 acres of onsite mitigation area is proposed to compensate the impacts. In order to achieve a 2:1 mitigation ratio, an additional 0.97 credits would be purchased from the Hartselle Wetland Mitigation Bank.

The 4.45 acres is comprised of 4 acres of wetland restoration and creation and 0.45 acres of upland buffer around the new stream and wetland areas. The wetland restoration and creation would be undertaken through excavation of the adjoining land. The created wetland area would be excavated down to the existing wetland elevation which is approximately 2 feet deep. Thus, the hydrology for the proposed wetland area would be achieved as for the existing wetland area from the overflow and flood events from the adjacent tributary and groundwater seepage. In addition, some hydrology would be obtained from runoff from part of the subdivision area. Upon achieving the desired grades, native mast bearing trees and fruiting shrubs would be installed in suitable plating areas. A small portion of the mitigation would include small habitat ponds. These small habitat ponds would be located near the northern end of the mitigation area near Peck Hollow Creek and near the central portion of the mitigation area. The small ponds are expected to provide wading bird habitat and would eventually form into a scrub/shrub wetland. Each small pond would be bordered by the proposed forested habitat buffer zone. This mitigation plan provides for a diverse mitigation plan that includes forested wetlands and buffer zones, wading pools and shrub/scrub wetlands. Approximately 2.61 acres of wetland preservation would occur along the relocated channel that would not be disturbed.

Success of the wetland mitigation area would be determined when the prescribed mitigation area exhibits wetland hydrology for a prolonged period of time during the growing season. This hydrology component would be measured at least monthly during the growing season through measurements of ground or surface water depths at staff gages or shallow ground water piezometers.

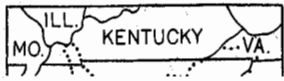
Success of vegetation establishment in the wetland and stream areas would be determined when 65% of the planted material has survived over a period of three years. This would be measured through minimum quarterly monitoring during year one after plating and semiannual monitoring in the following two years. Monitoring reports would be submitted annually and survivorship below 65% would be replanted with suitable native species.



FILE No. 200201386
P104-34 CHURCHILL DOWNS
SUBDIVISION

DECATUR QUAD

ROAD CLASSIFICATION		(TVA 68-SW)
Primary highway, all weather, hard surface	Light-duty road, all weather, improved surface	
Secondary highway, all weather, hard surface	Unimproved road, fair or dry weather	



SOMERVILLE 5 MI.
8 MI. TO ALABAMA 36

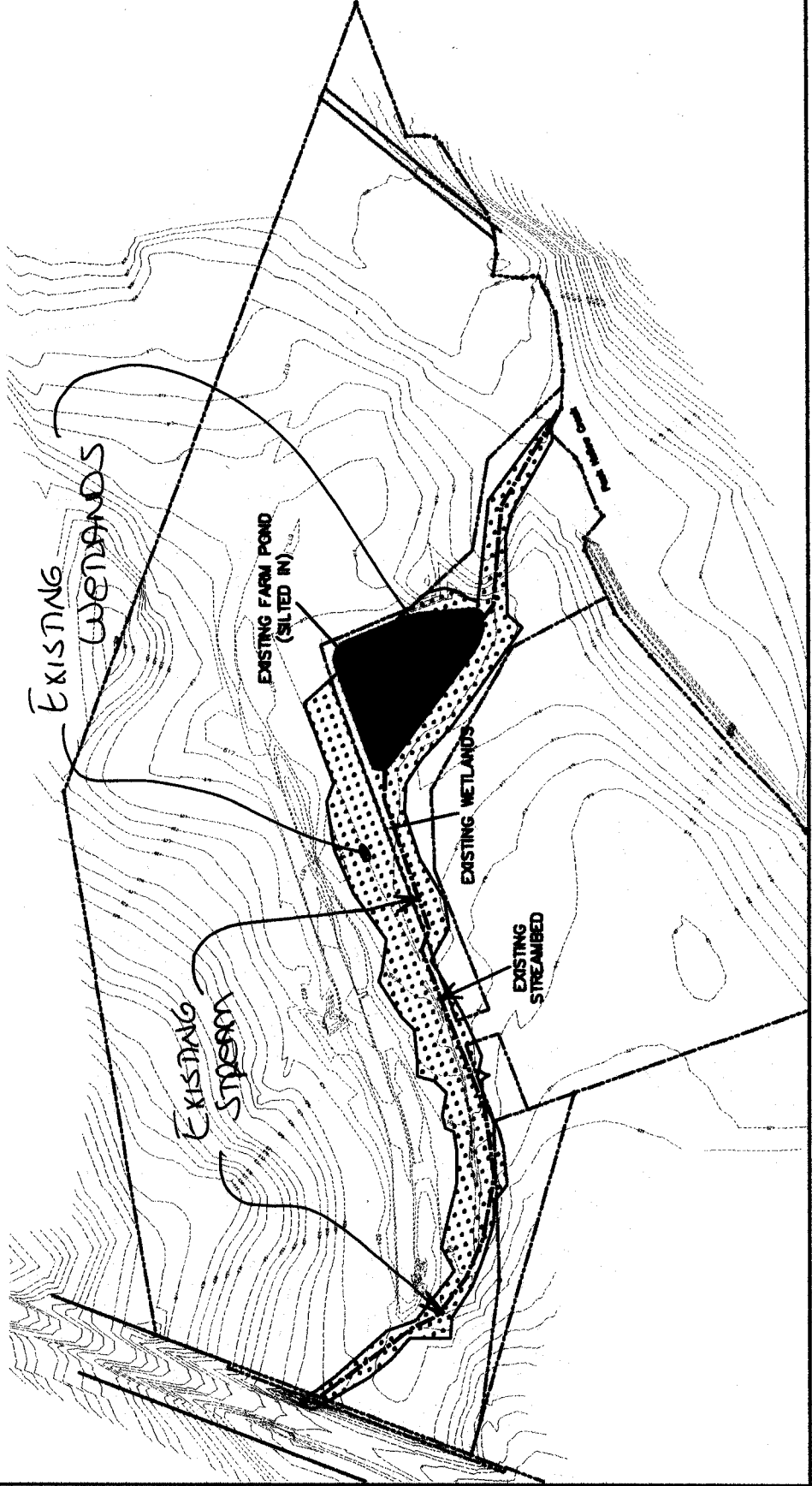
SOMERVILLE 5 MI.
8 MI. TO ALABAMA 36

File No. 200201386
PN 04-34

EXISTING CONDITIONS

LEGEND:

*****	EXISTING WETLANDS
	WETLANDS TO BE FILLED
////	MITIGATION AREA
■■■■■	UNDISTURBED EXIST. WETLANDS



TALON ENGINEERING, INC.

2243 E. UPPER
RIVER ROAD
DECATUR, AL
35603
256.353.5490
(OFFICE)
256.560.0816
(FAX)

CHURCHILL
DOWNS
SUBDIVISION

SOUTHERN
DESIGNS, L.L.C.
147 DEERFIELD
DRIVE
PRICEVILLE, AL
35603
256.353.1120
256.340.0690
(FAX)

LIMITS OF
A.C.O.E.
JURISDICTION
1" = 300'

APRIL 14, 2004

C4.00

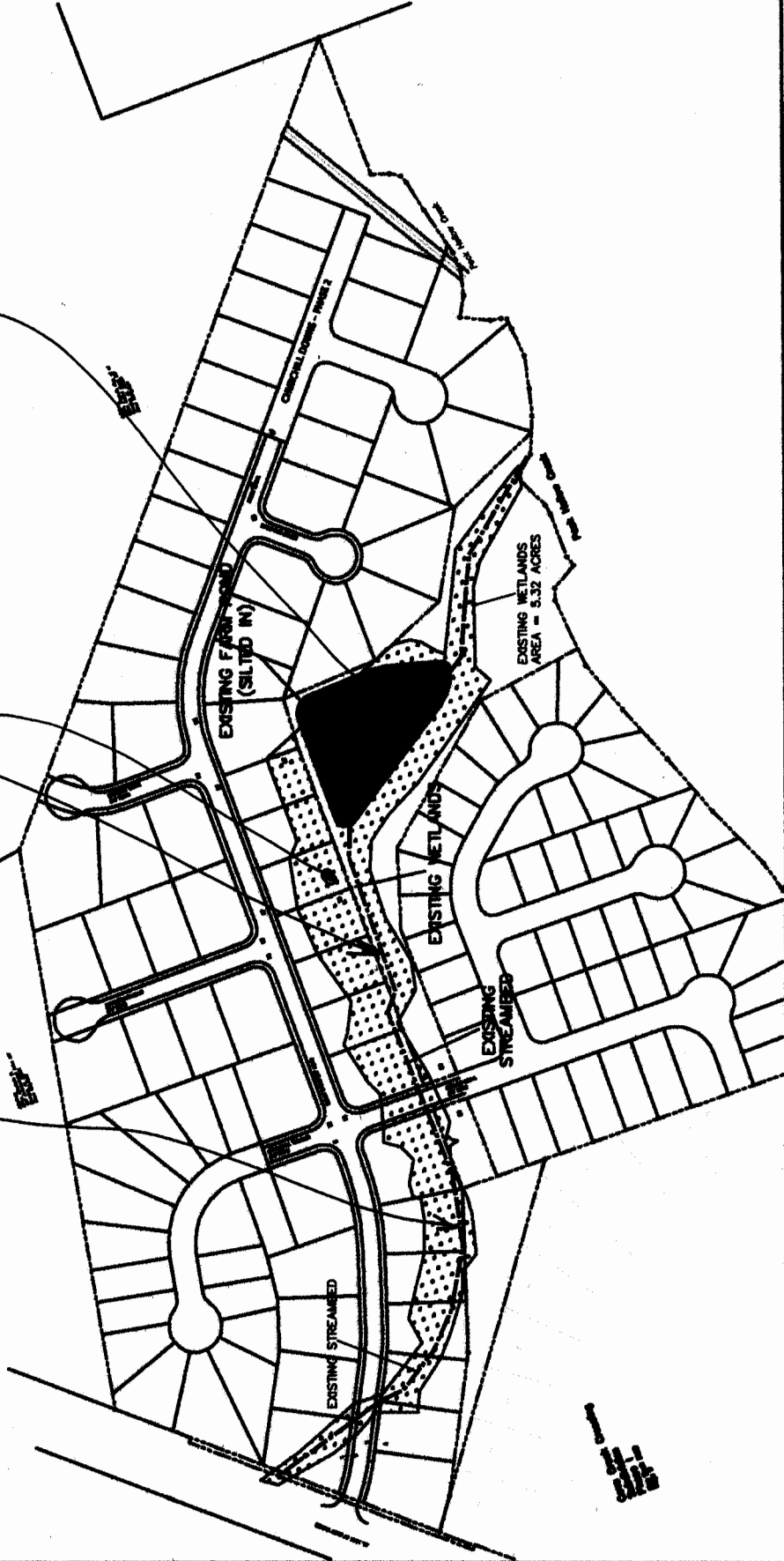
File No. 200201386
PN 04-34

EXISTING CONDITIONS
w/ Proposed Subdivision
LAYOUT

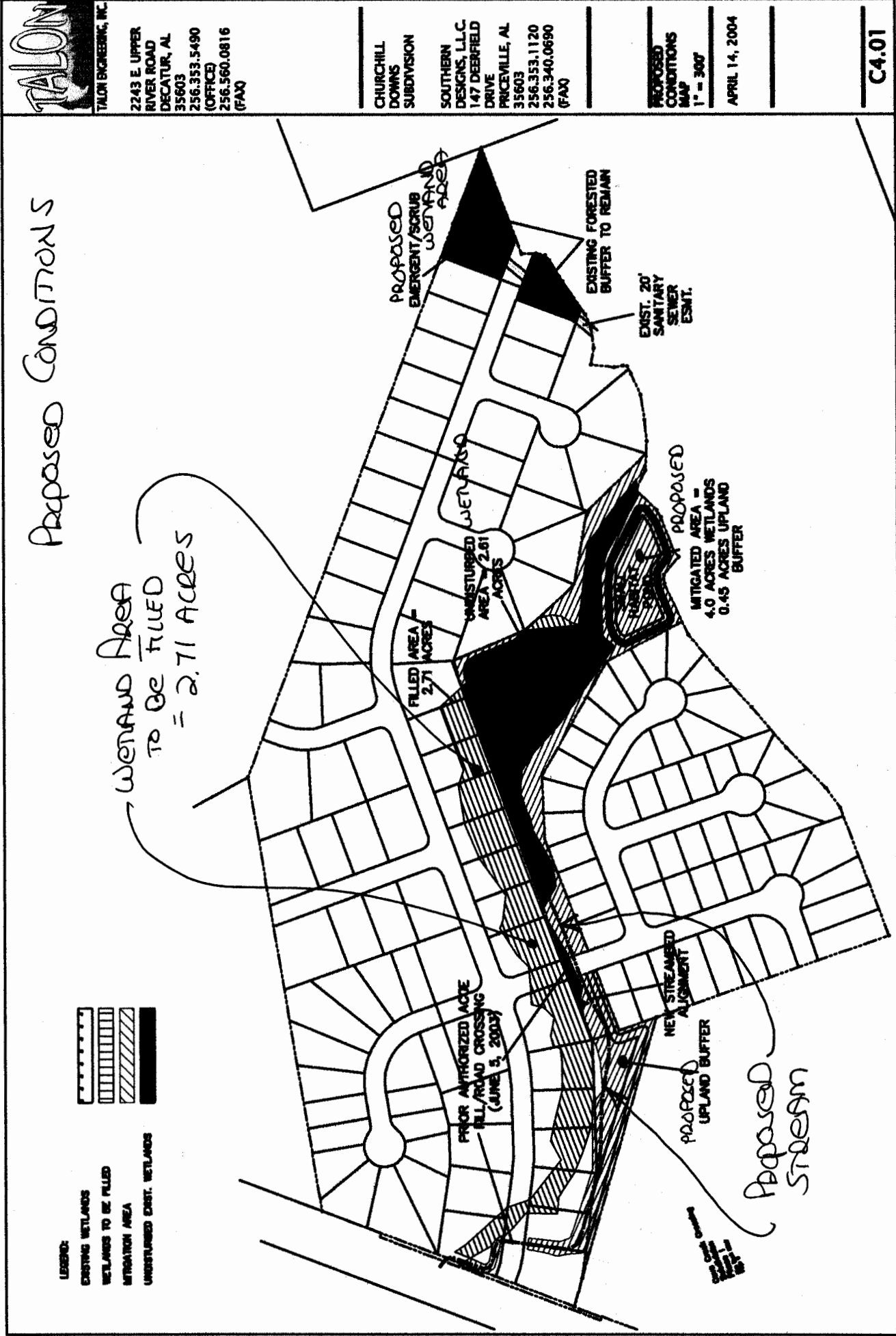
- LEGEND:
- EXISTING WETLANDS
 - WETLANDS TO BE FILLED
 - WETLAND AREA
 - UNDISTURBED EXIST. WETLANDS

EXISTING
STREAM

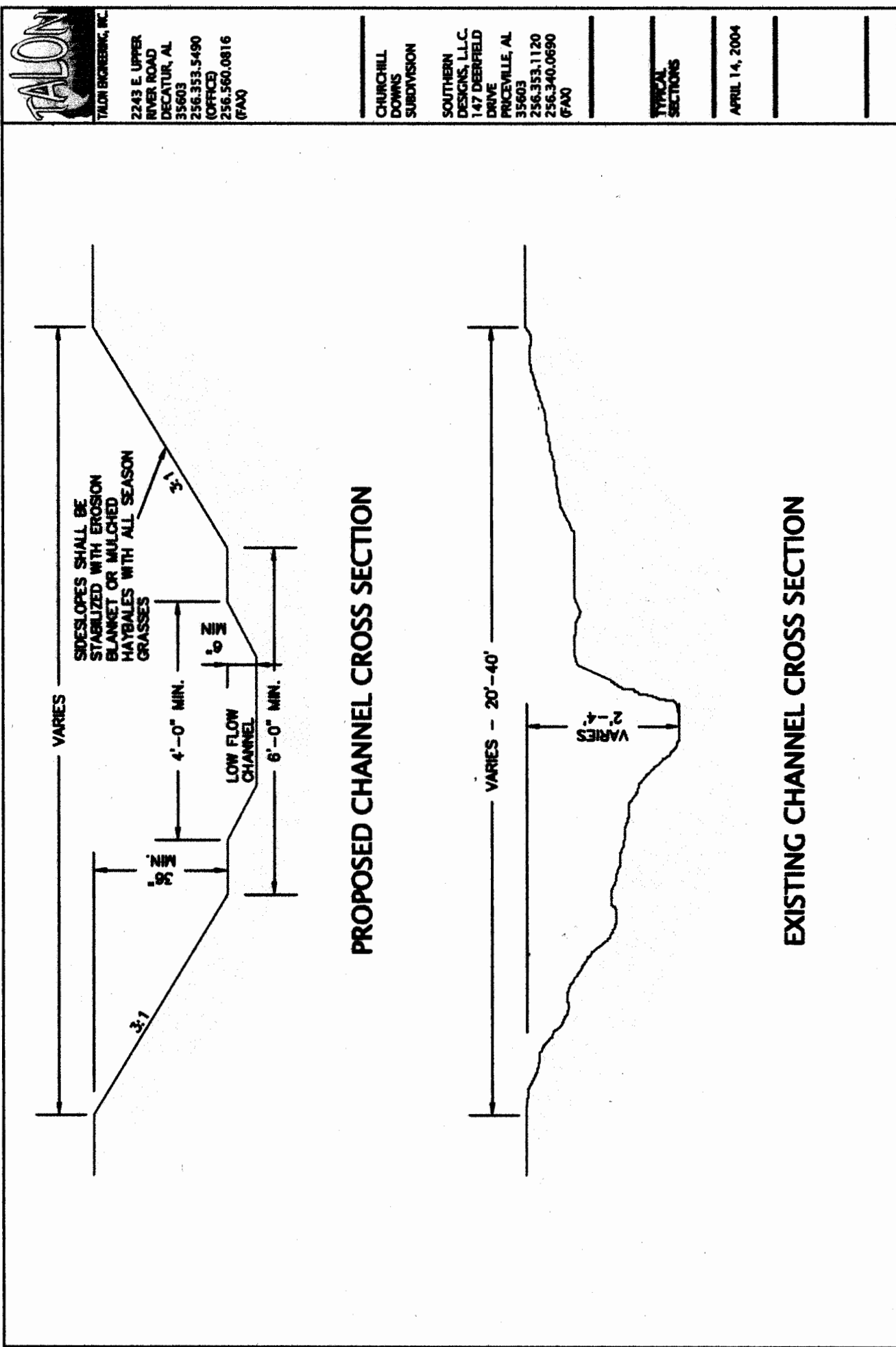
EXISTING
WETLANDS



File No. 200201386
PN 04-34



File No. 200201386
PN 04-34



File No. 200201386
PN 04-34

PLANTING SCHEDULE - CHURCHILL DOWNS SUBDIVISION

QUANTITY	SPECIES	INDICATOR	FORM	FLOOD TOLERANCE	SEED DISPERSAL	SEED TREATMENT	WATER LEVEL	SEEDLING SURVIVAL	COMMENTS
30	RIVER BIRCH BETULA NIGRA	FACW	TREE	IT	MAY-JUNE	COLD STRAT. 60-90 DAYS	SOIL SATURATION GROWING SEASON	100% AT 32 DAYS	CAN PROPAGATE BY SOFTWOOD CUTTINGS.
30	SWEETGUM LIQUIDAMBER STYRACIFLUA	FAC+	TREE	T	SEPT-NOV	COLD STRAT. 30 DAYS	TOTAL SUBMERSION GROWING SEASON	0% AT 32 DAYS	CAN PROPAGATE BY SOFTWOOD CUTTINGS.
15	OVERCUP OAK QUERCUS LYRATA	OBL	TREE	T	AUG.-DEC.	STRAT. NOT REQUIRED	SOIL SATURATION GROWING SEASON	95% AT 32 DAYS	WHITE OAK GROUP
50	WATER OAK QUERCUS NIGRA	FAC	TREE	T	AUG.-DEC.	COLD STRAT. 30-90 DAYS	PARTIAL SUBMERSION GROWING SEASON	SURVIVED 2 MONTHS	RED OAK GROUP
50	BLACK WILLOW SALIX NIGRA	OBL	TREE	VT	JUNE-JULY	NOT REQUIRED	TOTAL SUBMERSION GROWING SEASON	100% AT 30 DAYS	SEED WILL NOT REMAIN VIABLE IN STORAGE. PLANT WITHIN 10 DAYS AFTER COLLECTION. CAN PROPAGATE BY CUTTINGS.